

STATEMENT OF JANET REHNQUIST
NOMINEE FOR INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEFORE THE COMMITTEE ON FINANCE

UNITED STATES SENATE

Chairman Baucus, Senator Grassley and other distinguished Committee Members, it is an honor to appear before you today as the nominee for the Inspector General for the Department of Health and Human Services. I would like to thank the President and Secretary Thompson for their confidence in me in nominating me to this important position. As a former counsel on the Senate Permanent Subcommittee on Investigations and as an intern for the Senate during college, I have a tremendous respect for this institution and the work of the Committee Members. Never during my days as a Senate staffer did I envision appearing before this Committee as a nominee and I want to thank each of you for giving me the opportunity. I believe that my sixteen years as a practicing attorney, with experience in the private sector, the White House Counsel's Office in the first Bush administration, and particularly the last several years as an Assistant United States Attorney pursuing health care fraud enforcement cases, has prepared me for these responsibilities.

MISSION OF THE OFFICE OF INSPECTOR GENERAL

As you know, the Office of Inspector General (OIG) was created in 1976 and is statutorily charged with protecting the integrity of the Department's programs, as well as promoting their economy, efficiency and effectiveness. The OIG meets this statutory mandate through a comprehensive program of audits, program evaluations, and investigations designed to improve the management of the Department and to protect its programs and beneficiaries from fraud, waste and abuse. The OIG's role is to detect and prevent waste, fraud and abuse, in the literally hundreds of programs administered by HHS – programs that touch the lives of virtually every American, especially many of our most needy and vulnerable citizens.

This is a vital mission and, if confirmed, I look forward to focusing on how the OIG can do its job even better, to ensure that beneficiaries are protected and that tax payer dollars are used wisely and responsibly without placing undue burdens on providers. I look forward to working with the Administration to improve the efficiency and operation of the Federal health care programs. At the same time, I recognize that an essential underpinning of the OIG's mission is to maintain its independence, neutrality and nonpartisanship. The strength and credibility of the OIG's recommendations rest, in no small part, on its mandate to remain free from responsibility for day-to-day program operations, so that it can objectively and independently analyze those programs.

OVERVIEW OF ROLE OF THE OFFICE OF INSPECTOR GENERAL

There has been an unparalleled coordinated and cooperative response by the Congress and the Executive Branch of government to the problem of health care waste, fraud and abuse since Congress enacted the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In the past few years, the OIG has been able to expose and measure the problem more accurately than ever before. However, there is always more to do. Due to the complexity of the Federal health care programs and the vast amount of money flowing through the program, there will always be those who will continue to seek loopholes and siphon off those dollars earmarked for maintaining and improving the health of the elderly, disabled, and other beneficiaries of Federal health care programs in this country. In my view, the ongoing work of the OIG has two primary goals in this area. First, the OIG must help protect the taxpayers and ensure quality healthcare for those program beneficiaries. Second, the OIG must also make the Federal health care program environment one in which honest providers can operate on a level-playing field. Honest providers should not be put at a competitive disadvantage with those who intentionally set out to defraud the Federal health care programs or abuse Federal health care program beneficiaries.

OFFICE OF INSPECTOR GENERAL/HEALTH CARE PROVIDER PARTNERSHIP

The OIG has made numerous efforts in the past few years to work with health care providers. One of my focuses as Inspector General will be the recognition that the continued participation of all types of health care providers is critical to the continued success of the Federal health care programs. All health care providers have been profoundly affected by recent reforms to the Federal health care programs such as changes in the payment systems for hospitals and nursing facilities. Their operations are also affected by the Federal health care program regulations and procedures.

It is imperative that we work to provide information to health care providers, particularly physicians, regarding compliance with the laws, rules, and policies governing their participation in and submission of claims to the Federal health care programs. The recent Medicare program improper payment audit indicated that providers were doing a very good job of negotiating their way through the Medicare program rules. This was evidenced by the fact that 93% of all Medicare payments to health care providers were free of error. Yet, providers still have legitimate concerns about navigating program complexities, inconsistencies, and administrative burdens. Providers also need reassurances that they will not be assessed penalties for honest errors.

I expect that the OIG will help provide further means, primarily through education and

communication, to give health care providers the understanding and assurances they deserve in furnishing health care items and services to Federal health care program beneficiaries. I intend to stress the importance of education and communication with the provider community. I look forward to working with the Centers for Medicare and Medicaid Services (CMS), Congress and health care providers in finding ways to do this.

GOALS FOR THE FUTURE

Thanks to the support the OIG has received from Congress and the healthcare community in its fight to prevent fraud, waste and abuse in the Federal health care programs, the past few years have seen a marked decrease in Federal health care program costs without compromising the quality of health care services provided to beneficiaries. However, more can and should be done.

1. Policy Development and Oversight

Traditionally, the OIG has looked at existing health care regulatory and payment systems and created recommendations for how to improve their efficiency and effectiveness, thereby eliminating fraud that has already occurred within the system. It is equally important for the OIG to be involved early in the policy development stage. The studies produced by the OIG can help provide road maps of the areas where waste, fraud and abuse are likely to occur. Reliance on this objective data can inform and guide managers in developing policies and systems in ways that will prevent fraud. Similarly, once policies are in place, the programs must continue to be monitored to identify deficiencies promptly to make adjustments when needed. Incorporating these types of controls into policies as they are being developed will help reduce the likelihood of fraud, waste or abuse occurring once the policies are fully implemented.

In addition to helping create more comprehensive policies with internal controls, the OIG can also help develop the monitoring and assessment tools that will be needed for future reforms. One way to achieve this is by specifying the cost and encounter data that the Department, Congress, the health care industry and Federal health care program beneficiaries will need to annually assess the cost, effectiveness and efficiency of any new reforms enacted.

2. Implement and Enforce Fraud and Abuse Laws to the Fullest Extent Possible

As an Assistant United States Attorney for the Department of Justice in the Eastern District of Virginia, I had the opportunity to participate first hand in enforcing the

Federal fraud and abuse statutes. I also had the opportunity to see that as the nature of health care fraud changes, so must our approaches to combating it. We must look at the way we enforce the health care fraud statutes and work to maintain the consistency of their application in addition to focusing on cases in which there is evidence of providers deliberately setting out to defraud the Federal health care programs.

The False Claims Act, Civil Monetary Penalties Law and Exclusion statutes are all important tools for health care fraud prosecutors to use to maintain the integrity of the Federal health care programs. We need to find ways to maintain the full force of these statutes while working to ensure the penalties assessed are commensurate with the underlying conduct at issue.

Twelve years ago, as counsel to the Permanent Subcommittee on Investigations, together with the Office of Inspector General, we conducted an extensive investigation of the Medicare Secondary Payer program. That partnership between Senate staff and the OIG opened my eyes to the nature and extent of fraud and abuse in the Medicare program. As Inspector General, I will pledge to continue that partnership as we work together to protect the integrity of the Department's programs and their beneficiaries.

CONCLUSION

The efforts of a large number of people have resulted in tangible progress in combating fraud, waste, and abuse in the Department's programs in recent years. However, the problems that remain are serious, complicated, and have profound consequences. Structural reforms, new partnerships, and new ways of thinking are necessary to address these problems and continue the mission of the OIG. Part of that effort will involve working with the Senate and all of Congress. If confirmed as Inspector General, I will pledge immediate attention to inquiries from Congress to ensure that there is maximum communication between the OIG and its partners on Capitol Hill.

I also intend to be vigilant in ensuring that the OIG continues its efforts to protect the integrity of the Federal health care programs. Due to the tremendous volume of claims and amount of Federal dollars involved, there will always be those who will continue to take advantage of program vulnerabilities for their own unjust enrichment. I welcome the opportunity to serve in a role that will help ensure the longevity and integrity of the Federal health care programs thereby guaranteeing quality health care to millions of Americans for years to come.

Thank you again for your consideration of my nomination, and for the honor and privilege of appearing before you today. I would now be happy to answer any questions you might have.